

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 98-0139P

Gross Income Tax

Fiscal Years Ending January 28, 1995

And February 3, 1996

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d), 45 IAC 15-11-2

Taxpayer protests the imposition of the negligence penalty.

STATEMENT OF FACTS

Taxpayer, is a general partner with approximately twenty percent (20%) ownership of BLP that operates a mail catalog business in Indiana. As a result of the BLP audit, a desk examination of taxpayer's corporate income tax return was conducted to evaluate the proper reporting of income associated with the partnership. The examination resulted in adjustments to the returns filed with the department for the distributive share of partnership income derived from Indiana sources at the higher rate for gross income tax purposes. A partner's distributive share means the amount determined under Section 704 of the Internal Revenue Code.

I. Tax Administration – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in remitting tax due subjecting it to a negligence penalty.

Taxpayer failed to include its distributive share of partnership income derived from Indiana sources at the higher rate for gross income tax purposes and states they employed a new person who was not aware that distributive shares of income must be reported.

Taxpayer reported less than \$88,000 of the \$5,242,996 ordinary income and \$328,036 interest income from its K-1 schedule, therefore the penalty will not be waived. The partnership regulations were published July 1, 1993 in the Indiana Register. In addition, taxpayer utilized an accounting firm.

FINDING

Taxpayer's protest is denied.